

EXHIBIT 2

From: Lixi Colmenero <LixiC@calfoeakes.com>

Sent: Thursday, December 23, 2021 3:48 PM

To: Shane Cramer <shanec@harriganleyh.com>; Kristin Ballinger <kristinb@harriganleyh.com>

Cc: Angelo Calfo <angeloc@calfoeakes.com>; Patty Eakes <pattye@calfoeakes.com>; Tyler Weaver <TylerW@calfoeakes.com>; Gabe Reilly-Bates <GabeR@calfoeakes.com>

Subject: Hunters Capital, LLC, et. al. v. City of Seattle

Good afternoon,

On behalf of Calfo Eakes LLP, attached please find correspondence from Gabriel Reilly-Bates.

A hard copy will not follow.

Please feel free to contact our office should you have any questions.

Thank you and Happy Holidays!

Lixi Aylin Colmenero | Legal Assistant

CALFO EAKES LLP

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Gabriel Reilly-Bates
GabeR@calfoeakes.com
(206) 407-2223

December 23, 2021

Via Email

Shane P. Cramer
Kristin E. Ballinger
Harrigan Leyh Farmer & Thomsen LLP
999 Third Avenue, Suite 4400
Seattle, WA 98104
Email: shanec@harriganleyh.com
kristinb@harriganleyh.com

Re: Hunters Capital, LLC, et. al. v. City of Seattle, case no. 20-cv-00983-TSZ

Dear Shane and Kristin:

We write to you concerning Michael Malone's text message production. **We have been unable to recover any text messages sent or received by Michael Malone from prior to March 26, 2021,** either from his iPhone or from any other backup source. Plaintiffs' collection of text messages was taken from Mr. Malone's iPhone on May 3, 2021, but it did not contain any responsive text messages due to the limited date range. We reviewed Mr. Malone's iCloud account, and we located three back-up files on his iCloud account, but none of these backup files contain text messages from before March 26, 2021. Mr. Malone avers that he did not intentionally delete any communications relating to this case, and the City now has copies of communications between Mr. Malone and Mayor Jenny Durkan's personal electronic devices in its possession.

In addition, we have also recently discovered that Mr. Malone's phone that was used by Mr. Malone in June 2020 was stolen on or about June 1, 2021. From June 2020 – approximately March 2021, Mr. Malone had an iPhone 11 that he used for personal and work communications. On approximately May 31, 2021, Mr. Malone *lost* his iPhone at Hunters, WA. After the loss of his iPhone, Mr. Malone purchased a replacement iPhone, but his replacement iPhone only has text messages on it going back to March 26, 2021.

On June 1, 2021, Mr. Malone's lost iPhone was found by Paul Peterson on a tractor seat in Hunters, WA. On June 1, 2021, the iPhone was shipped to Mr. Malone at the Broadway offices of Hunters Capital via UPS. The UPS delivery driver left the package on the street in front of Hunters Capital's door on Broadway Ave. Before the package could be retrieved by a Hunters' Capital employee, it was stolen from the doorway. Mr. Malone has not been able to recover his

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stolen iPhone. On July 15, 2021, UPS approved a claim that had been made with respect to the stolen package, and UPS paid Mr. Malone \$759.00 to cover the cost of the stolen phone.

Sincerely,

CALFO EAKES LLP

A handwritten signature in blue ink, appearing to read "Gabriel Reilly-Bates". The signature is stylized with a large "G" and "R".

Gabriel Reilly-Bates

cc: Angelo J. Calfo
Patricia Eakes
Tyler S. Weaver